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8 **BEFORE THE**  
9 **BUREAU OF REAL ESTATE APPRAISERS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. L20190314-01

13 **COESTERVMS.COM INC.**  
14 **555 Quince Orchard Road, Suite 650**  
**Gaithersburg, MD 20878**

**ACCUSATION**

15 **Appraisal Management Company**  
16 **Registration No. 1445**

17 Respondent.

18 Complainant alleges:

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20 **PARTIES**

21 1. Aaron Klinger, acting on behalf of the Bureau of Real Estate Appraisers  
22 (“Complainant”), Department of Consumer Affairs, brings this Accusation solely in his official  
23 capacity as Chief of Enforcement for Complainant.

24 2. On or about December 22, 2010, the Bureau of Real Estate Appraisers (formerly  
25 Office of Real Estate Appraisers) issued Appraisal Management Company Registration Number  
26 1445 to CoesterVMS.com Inc. (“Respondent”). The Appraisal Management Company  
27 Registration was in full force and effect at all times relevant to the charges brought herein and  
28 will expire on December 22, 2020, unless renewed.

1 JURISDICTION AND STATUTORY PROVISIONS

2 3. This Accusation is brought before the Bureau of Real Estate Appraisers ("Bureau")  
3 for the Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Business and Professions Code section 11313 states:

6 "The Bureau is under the supervision and control of the Director of Consumer Affairs. The  
7 duty of enforcing and administering this part is vested in the chief, and he or she is responsible to  
8 the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and  
9 regulations as are determined reasonably necessary to carry out the purposes of this part. Those  
10 rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340)  
11 of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the former  
12 Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its  
13 licensees."

14 5. Business and Professions Code section 11315.3 states:

15 "The suspension, expiration, or forfeiture by operation of law of a license or certificate of  
16 registration issued by the office, or its suspension, forfeiture, or cancellation by order of the office  
17 or by order of a court of law, or its surrender without the written consent of the office, shall not,  
18 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the office  
19 of its authority to institute or continue a disciplinary proceeding against the licensee or registrant  
20 upon any ground provided by law or to enter an order suspending or revoking the license or  
21 certificate of registration, or otherwise taking disciplinary action against the licensee or registrant  
22 on any such ground."

23 6. Business and Professions Code section 11315(e) states:

24 "In no event shall an administrative fine assessed by the office by citation or order exceed  
25 ten thousand dollars (\$10,000) per violation. In assessing a fine, the office shall give due  
26 consideration to the appropriateness of the amount of the fine with respect to factors such as the  
27 gravity of the violation, the good faith of the person who committed the violation, and the history  
28 of previous violations."

1 7. Business and Professions Code section 11301 states:

2 “(a)(1) There is hereby created within the Department of Consumer Affairs a Bureau of  
3 Real Estate Appraisers to administer and enforce this part.

4 (b) Whenever the term “Office of Real Estate Appraisers” appears in any other law, it  
5 means the “Bureau of Real Estate Appraisers.”

6 8. Business and Professions Code section 11316, subdivision (a) states:

7 “(a) The director may assess a fine against a licensee, applicant for licensure, person who  
8 acts in a capacity that requires a license under this part, course provider, applicant for course  
9 provider accreditation, or a person who, or entity that, acts in a capacity that requires course  
10 provider accreditation for violation of this part or any regulations adopted to carry out its  
11 purposes.”

12 9. Business and Professions Code section 11314 states, in pertinent part: “The office is  
13 required to include in its regulations requirements for licensure and discipline of real estate  
14 appraisers that ensure protection of the public interest.”

15 10. California Code of Regulations, title 10, section 3721 states:

16 “(a) The Chief may issue a citation, order of abatement, assess a fine or private or public  
17 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the  
18 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a  
19 capacity requiring a license or Certificate of Registration who has:

20 “(1) Been convicted of a felony or any crime which is substantially related to the  
21 qualifications, functions, or duties of the profession of real estate appraisal;

22 “(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or  
23 another, or to injure another;

24 “(3) Been convicted for a commission or solicitation of a criminal act which involved or  
25 threatened bodily harm to others;

26 “(4) Done any act which if done by the holder of a license to practice real estate appraisal  
27 would be grounds for revocation or suspension of such license;

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1           “(5) Knowingly made a false statement of material fact required to be disclosed in an  
2 application for a license authorizing the practice of real estate appraisal;

3           “(6) Violated any provision of USPAP;

4           “(7) Violated any provision of the Real Estate Appraisers’ Licensing and Certification Law,  
5 Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or  
6 regulations promulgated pursuant thereto; or any provision of the Business and Professions Code  
7 applicable to applicants for or holders of licenses authorizing appraisals;

8           “(8) Been prohibited from participating in the affairs of an insured depository institution  
9 pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. Section 1829.); or

10           “(9) Submitted a financial instrument to BREA for the payment of any fee, fine or penalty  
11 which instrument is subsequently dishonored by the issuing institution due to an act or omission  
12 of that person.

13           “(b) Before issuing any private or public reproof or denying, suspending, or revoking any  
14 license or Certificate of Registration issued or issuable under the provisions of the Real Estate  
15 Appraisers Licensing and Certification Law or these regulations, the Bureau shall proceed as  
16 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of  
17 the Government Code (the Administrative Procedure Act) and the Bureau shall have all the  
18 powers granted therein.

19           “(c) Any person issued a citation containing a fine or order of abatement may contest the  
20 citation by filing a written notice with the Bureau within 30 calendar days that states with  
21 specificity the basis of the appeal. Upon receipt of such notice, the Bureau shall proceed as  
22 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of  
23 the Government Code (the Administrative Procedure Act) and the Bureau shall have all the  
24 powers granted therein.”

25           11. California Code of Regulations, title 10, section 3724 states:

26           “(a) Where the Chief has verified a notice of acts or omissions by a licensed appraiser,  
27 Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration  
28 which constitute a violation of statute, regulation or USPAP, he/she may issue a citation in

1 writing which describes with particularity the nature of the violation and including specific  
2 reference to the law, regulation or professional practice standard determined to have been  
3 violated. The citation may include a notice of abatement fixing a reasonable period of time for  
4 abatement of the violation, assessment of private or public reproof, suspension, revocation,  
5 restriction of license, fine or any combination of these actions.

6 “(b) Fines shall not exceed \$10,000 per incident. In assessing a fine, the Chief shall give  
7 due consideration to:

8 “(1) The gravity of the violation;

9 “(2) The good or bad faith of the person cited;

10 “(3) The history of previous violations;

11 “(4) Evidence that the violation was willful;

12 “(5) The extent to which the cited person has cooperated with the Bureau;

13 “(6) The extent to which the cited person has mitigated or attempted to mitigate any loss or  
14 potential loss caused by the violation; and

15 “(7) Such other matters as the Chief determines are in the interest of justice.

16 “(c) Citations issued hereunder shall be subject to review as provided in subsection (b) of  
17 Section 3721.”

18 12. California Code of Regulations section 3725 states:

19 “Where the Chief determines that a person is acting in the capacity of a licensee under the  
20 jurisdiction of the Bureau in violation of Section 11320 of the Business and Professions Code,  
21 and said person commits acts or omissions which constitute a violation of statute or these  
22 regulations, the Chief may issue a citation to that person in accordance with Section 3724. Any  
23 sanction authorized under this section shall be separate from and in addition to any other civil or  
24 criminal remedies.”

25 13. Business and Professions Code section 11328.1 states, in pertinent part:

26 “If the director has a reasonable belief that a registrant, or person or entity acting in a  
27 capacity that requires a certificate of registration, has engaged in activities prohibited under this  
28 part, he or she may submit a written request to the registrant, person, or entity, requesting copies

1 of written material related to his or her investigation. Any registrant, person, or entity receiving  
2 a written request from the director for information related to an investigation of prohibited  
3 activities shall submit that information to the director or the office within a reasonable period of  
4 time, which shall be specified by the director in his or her written request. Any material  
5 submitted shall be kept confidential by the director and the office.”

6 14. Business and Professions Code section 11345.3 states:

7 “All appraisal management companies shall do all of the following:

8  
9 (a) Ensure that all contracted appraisal panel members possess all required licenses and  
10 certificates from the office.

11 (b) Establish and comply with processes and controls reasonably designed to ensure that  
12 the appraisal management company, in engaging an appraiser, selects an appraiser who is  
13 independent of the transaction and who has the requisite license, education, expertise, and  
14 experience necessary to competently complete the appraisal assignment for the particular market  
15 and property type.

16 (c) Direct the appraiser to perform the assignment in accordance with the Uniform  
17 Standards of Professional Appraisal Practice.

18 (d) Establish and comply with processes and controls reasonably designed to ensure that  
19 the appraisal management company conducts its appraisal management services in accordance  
20 with the requirements of Section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C.  
21 1639e(a) through (i) , and regulations thereunder.

22 (e) Engage appraisal panel members with an engagement letter that shall include terms of  
23 payment.

24 (f) Appraisal management companies shall maintain all of the following records for each  
25 service request:

26 (1) Date of receipt of the request.

27 (2) Name of the person from whom the request was received.  
28

1 (3) Name of the client for whom the request was made, if different from the name of the  
2 person from whom the request was received.

3 (4) The appraiser or appraisers assigned to perform the requested service.

4 (5) Date of delivery of the appraisal product to the client.

5 (6) Client contract.

6 (7) Engagement letter.

7 (8) The appraisal report.”

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9 **COST RECOVERY PROVISION**

10 15. Business and Professions Code section 11409, subdivision (a) states:

11 “Except as otherwise provided by law, any order issued in resolution of a disciplinary  
12 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that  
13 requires a license under this part, registrant, applicant for a certificate of registration, course  
14 provider, applicant for course provider accreditation, or a person who, or entity that, acts in a  
15 capacity that requires course provider accreditation found to have committed a violation or  
16 violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to  
17 exceed the reasonable costs of investigation, enforcement, and prosecution of the case.”

18 **FACTS**

19 16. Respondent is an appraisal management company (“AMC”). The primary function of  
20 an AMC is to contract for appraisal services, typically from appraiser licensees. This function is  
21 done on behalf of a third-party, which is typically a housing lender.

22 17. On or about August 9, 2018, the Bureau received a complaint for non-payment of two  
23 (2) appraisal assignments from appraiser licensee M.H. The engagement letters for these  
24 assignments with M.H. did not include terms of payment.

25 18. On or about October 18, 2018, the Bureau received a complaint for non-payment of  
26 two (2) appraisal assignments from appraiser licensee J.S. The engagement letters for these  
27 assignments with J.S. did not include terms of payment. On or about November 7, 2018, the  
28 Bureau mailed Respondent a letter notifying Respondent that they would be investigating

1 potential violations of the law and requested information pursuant to section 11328.1 of the Code.  
2 As of the date of this filing, the Bureau has received no response from Respondent.

3 19. On or about December 19, 2018, the Bureau again mailed Respondent a letter  
4 notifying Respondent that they would be investigating potential violations of the law and  
5 requested information pursuant to section 11328.1 of the Code. As of the date of this filing, the  
6 Bureau has received no response from Respondent.

7 20. On or about November 6, 2018, the Bureau received a complaint for non-payment of  
8 three (3) appraisal assignments from appraiser licensee G.D. On or about November 30, 2018,  
9 the Bureau mailed Respondent a letter notifying Respondent that they would be investigating  
10 potential violations of the law and requesting information pursuant to section 11328.1 of the  
11 Code. As of the date of this filing, the Bureau has received no response from Respondent.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to Include Terms of Payment in Engagement Letters)**

14 21. Respondent is subject to disciplinary action under section California Code of  
15 Regulations, title 10, section 3721, subdivision (a)(7), in that Respondent violated section  
16 11345.3(e) of the Code by failing to engage appraisal panel members with an engagement letter  
17 that included terms of payment.

18 22. Complainant incorporates the allegations of paragraphs 15 through 19 as set forth  
19 herein.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Submit Information Related to an Investigation)**

22 23. Respondent is subject to disciplinary action under California Code of Regulations,  
23 title 10, section 3721, subdivision (a)(7), in that Respondent violated section 11328.1 of the Code  
24 by failing to submit information related to a Bureau investigation of prohibited activities after  
25 request. The circumstances are as follows:

26 24. Complainant incorporates the allegations of paragraphs 15 through 19 as set forth  
27 herein.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Chief of the Bureau of Real Estate Appraisers issue a decision:

1. Revoking or suspending Appraisal Management Company Registration Number 1445, issued to CoesterVMS.com Inc.
2. Ordering CoesterVMS.com Inc. to pay the Bureau of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;
3. Ordering CoesterVMS.com Inc. to pay the Bureau of Real Estate Appraisers a fine in the amount of \$10,000.00 pursuant to Business and Professions Code section 11316; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 4/25/2019

**ORIGINAL SIGNED**

AARON KLINGER  
Chief of Enforcement  
Bureau of Real Estate Appraisers  
Department of Consumer Affairs  
State of California  
*Complainant*

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